

United States Court of Appeals For the First Circuit

No. 02-1935
02-1936

UNITED STATES,

Appellee,

v.

MAXIMILIANO AMPARO-CONCEPCIÓN,

Defendant, Appellant.

ON APPEAL FROM THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF PUERTO RICO

[Hon. Daniel R. Dominguez, U.S. District Judge]

Before

Lynch, Circuit Judge,
Siler, Circuit Judge,^{*}
and Lipez, Circuit Judge.

Maximiliano Amparo-Concepción on brief pro se.

Thomas F. Klumper, Assistant United States Attorney, H.S. Garcia, United States Attorney, and Sonia I. Torres, Assistant United States Attorney, on brief for appellee.

October 28, 2003

^{*} Of the United States Court of Appeals for the Sixth Circuit, sitting by designation.

Per Curiam. For the reasons stated in United States v. Rosa-Ortiz, No. 02-2362, appellant's guilty plea in No. 02-1935 is **vacated** and the case is **remanded** for dismissal of the indictment.

Appellant's conviction under 18 U.S.C. § 1001 stands. Because we vacate his conviction on the conspiracy charge, however, appellant's total offense level must be recalculated and a new sentence imposed. Accordingly, appellant's sentence in No. 02-1936 is **vacated** and the case is **remanded** to the district court for resentencing.

So ordered.

Dissenting opinion follows.

SILER, Circuit Judge (dissenting). For the reasons stated in my opinion in the companion case to this appeal, United States v. Rosa-Ortiz, No. 02-2362, I respectfully dissent.